IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CACP No.10 of 2001

DATE OF DECISION: 11.07.2007.

Praneet Bhardwaj ....Petitioner

Versus

Paramjit Singh and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR.JUSTICE M.M.S. BEDI

PRESENT: Mr. A.K.Chopra, Sr. Advocate with
Mr.N.D. Kalra, Advocate
for the appellant.

Mr. Deepak Gupta, Advocate
for respondent No.2.

Mr. G.S. Bhatia, Advocate
for respondent No.3.

J.S. Khehar, J.

Praneet Bhardwaj was posted as Sub Divisional Magistrate at Payal in 1997. However, he was not on duty from 1.8.1997 to 24.10.1997. During the aforesaid period, the Sub Divisional Magistrate, Khanna, officiated in his place.

The incident in question, on the basis of which the appellant Praneet Bhardwaj, has been proceeded against pertains to allegations relatable to 18.8.1997 i.e. on a day when the appellant was not on duty. It is alleged that on 18.8.1997 some persons came to the two shops of the

respondent Paramjit Singh and demolished the construction raised thereon and forcibly took possession of the site. This alleged action at the hands of the appellant and others constitutes the basis of the initiation of proceedings at the hands of the respondent Paramjit Singh against the appellant and some others under the provisions of the Contempt of Courts Act, 1971, by filing COCP No.1109 of 1997. In the contempt petition filed by Paramjit Singh i.e. the respondent herein, comprises of a short and sweet narration. The facts narrated in the contempt petition evoked our interest, in furtherance of our desire to extract therefrom the exact allegations that came to be levelled by the respondent Paramjit Singh against the appellant Praneet Bhardwaj. The difficulty, which we encountered, can only be apparent from the perusal thereof. The narration in the contempt petition is, accordingly, being extracted hereunder:-

> "1. That the above referred Regular Second Appeal was filed in this Hon'ble Court by one Shri Rajinder Singh, deceased through his legal heirs Baltej Kaur and Jagdish Singh.
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> 2. That the said regular second appeal was disposed of vide order dated 18.7.1995. As per the said orders, the suit of the plaintiff was decreed as per the compromise deed, two shops were given to the plaintiffs. Copy of the said order and the compromise deed is annexed along with Annexure P/1 and P/2.
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> 3. That the petitioner purchased the said two shops from the legal heirs of Rajinder Singh in whose favour the suit

was decreed and the two shops handed over to them.

4. That the petitioner raised construction in the said two shops whose description is given as below:

North : 48 yards thoroughfare

South : 48 yards thoroughfare

East : 32 yards thoroughfare and Mandir and Sarai

West : 32 yards land of Ami Chand.

5. That on 17.8.1997, a representation was submitted to the Sub Divisional Magistrate, Khanna that the work of the said shop be stopped. The S.D.M. Khanna passed an order that the work be stopped till 9.00 A.M. tomorrow i.e. on 18.8.1997 Monday.

6. That on 18.8.1997, the petitioner appeared before the Sub Divisional Magistrate, Khanna and apprised him about the whole situation and also about the decree passed by the Hon'ble High Court in the above referred R.S.A. The said Sub Divisional Magistrate allowed further construction on the two shops. The construction was completed by evening.

7. That around mid-night some persons along with above named respondents came at the site of the petitioner's two shops and demolished the constructions raised over there and forcibly took possession of the site in gross violation of the decree passed by the Hon'ble High Court in the above referred R.S.A. It is pertinent to mention here that the above named officers/respondents were apprised of the High Court

orders but to no avail. Photographs showing the construction and demolition of the said shop are annexed along with as Annexures P/3, P/4 and P/5.

8. That the respondents have committed blatant contempt of this Hon'ble Court by disobeying the decree passed by this Hon'ble Court and, as such, are liable for punishment under the Contempt of Courts Act.

9. That it is pertinent to mention here that the petitioner filed the Civil Writ Petition seeking direction to allow the petitioner to raise construction in the said two shops bearing No.13210 of 1997 which was disposed of vide order dated 5.9.1997.

10. In the premises, it is, therefore, respectfully prayed that the respondents be punished for committing contempt of Courts by disobeying the orders of this Hon'ble Court."

A perusal of the facts narrated in paragraphs 5 and 6 lead to the inevitable conclusion, that the factual position depicted in the instant appeal, namely, that whilst the appellant was not on duty on the fateful day, the Sub Divisional Magistrate, Khanna, officiated in his place, is correct. Not only has the appellant been able to establish that he was not on duty on 17/18.8.1997, he has also been successful in convincing us that in the entire petition preferred by Paramjit Singh under section 10 of the Contempt of Courts Act, 1971, there is not even a single allegation levelled against the appellant. In fact, in the pleadings one does not encounter even a reference to the appellant Praneet Bhardwaj. Since the factual position, noticed hereinabove, was on first blush not believable,

and since, we are of the view, that such a conclusion would not easily be acceptable, we have extracted the entire pleadings of the contempt petition, filed by the respondent Paramjit Singh, in the instant order.

Having arrived at the conclusion, that no allegations whatsoever were levelled against the appellant Paramjit Singh, we are satisfied, that no costs could have been imposed upon him. An adverse order under the provisions of the Contempt of Courts Act, 1971, has to precede a finding of guilt at the hands of the contemner. A finding of guilt has to be based on wilful disobedience of a judgment, decree, direction order or other process of a Court. In the absence of any allegations against the appellant, there can be no question of wilful disobedience to any judgment, decree, direction, order or other process of a Court. In the facts and circumstances of this case, we are satisfied, that the costs imposed upon the appellant deserve to be set aside. The same are, accordingly, set aside.

Having arrived at the conclusion that the appellant is not guilty under the provisions of the Contempt of Courts Act, 1971, rule issued against him is hereby discharged.

(J.S. Khehar)
Judge

(M.M.S. Bedi)
Judge

July 11, 2007.
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